

EXECUTIVE OFFICER SUMMARY REPORT
November 12, 2003

ITEM: 12

SUBJECT: Settlement of liability against Ryland Homes of California, Inc. for violation of Water Code sections 13376, 13267, and 13383 and SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with construction activity, Serenada Development, Murrieta, Riverside County. The Regional Board will consider accepting a proposed settlement for the liability. If the Regional Board decides to reject the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability (Tentative Resolution No. R9-2003-0291) (*Frank Melbourne*)

PURPOSE: The Regional Board will consider acceptance of Ryland Homes of California, Inc.'s (Ryland's) offer to settle liability by adopting tentative Order No. R9-2003-0291 (Document No. 2).

PUBLIC NOTICE: A 30-day public comment period of the proposed settlement of Complaint No. R9-2003-0162 was published in the Press Enterprise (Riverside County Area Newspaper) on August 1, 2003. The notice was also included in the Notifications section of August's Regional Board Agenda and published on the Regional Board's web page on August 5, 2003.

DISCUSSION: On June 5, 2003, the Executive Officer issued Complaint No. R9-2003-0162 for Administrative Civil Liability to Ryland. (Document No. 3) A summary of the factual and analytical evidence supporting assessment of a liability of \$158,350 against Ryland is contained in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained in Complaint No. R9-2003-0162, Ryland Homes of California, Inc., Serenada Development, Riverside County, June 5, 2003*. (Document No. 4).

The Complaint alleged the following violations:

1. Failure to prohibit four discharges of sediment to waters of the United States;
2. Failure to implement a Storm Water Pollution Prevention Plan (SWPPP) by failing to implement and/or maintain Best

Management Practices for 56 days (the complaint and technical analysis inaccurately stated 68 days);

3. Failure to file a Notice of Intent (NOI) to comply with State Board Order No. 99-08-DWQ from September 1, 2002 to March 10, 2003, totaling 191 days; and
4. Failure to submit a technical report from March 29, 2003 until June 5, 2003, totaling 68 days of violation.

The Regional Board met with Ryland to discuss the allegations of the Complaint on July 15, 2003. On July 23, 2003, the Regional Board received a settlement offer from Ryland. (Document No. 5) The Executive Officer agreed to schedule Ryland's settlement offer before the Regional Board in a letter on July 30, 2003. (Document No. 6) On August 27 and October 29, 2003, the Regional Board inspected the Serenada site to assess Ryland's status of compliance with State Board Order No. 99-08-DWQ and found no violations. (Document Nos. 7 and 8)

The settlement offer for consideration has the following positive aspects:

1. Ryland waives right to petition the State Board on this matter.
2. Ryland took immediate action to achieve compliance.
3. The settlement of \$88,850 is a sufficient amount of liability to deter Ryland and other dischargers from non-compliance.
4. The settlement is consistent with the State Board's Water Quality Enforcement Policy.
5. The City of Murrieta worked with the Regional Board on this enforcement action and it supports the settlement terms.
6. Settlement allows the Regional Board to redirect formal enforcement resources to other high priority violations.

LEGAL CONCERNS: None.

SUPPORTING
DOCUMENTS:

1. Location Map
2. Tentative Order No. R9-2003-0291
3. Complaint No. R9-2003-0162
4. Technical Analysis
5. Ryland's Settlement Offer
6. Regional Board's Acceptance Letter
7. Regional Board Inspection Report, August 27, 2003
8. Regional Board Inspection Report, October 29, 2003

RECOMMENDATION: Adopt tentative Order No. R9-2003-0291.